

1 HONORABLE JAMES L. ROBART
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 MICROSOFT CORPORATION,

10 v. Plaintiff,

11 MOTOROLA, INC., et al.,

12 v. Defendants.

13 MOTOROLA MOBILITY, INC., et al.,

14 v. Plaintiffs,

15 MICROSOFT CORPORATION,

16 v. Defendant.

17 No. C10-1823-JLR

18 MICROSOFT'S 6/15/12 MOTION TO
FILE DOCUMENTS UNDER SEAL

19 **NOTED FOR:**
Friday, June 29, 2012

20 **I. RELIEF REQUESTED**

21 Pursuant to Local Civil Rule 5(g) and paragraphs 2(a) and 8 of the protective order
22 entered in this case, Microsoft is required to file this motion for leave to file under seal Exhibit
23 1 to Chris Wion's June 15, 2012 letter to the Court requesting leave to supplement the record
24 on Microsoft's Motion for Partial Summary Judgment Dismissing Motorola's Claim for
25 Injunctive Relief (ECF No. 141).

26 The document at issue discloses information that has been designated by third party
27 MPEG LA, LLC as confidential business information under the terms of the operative
28

29 MICROSOFT'S 6/15/12 MOTION TO FILE
DOCUMENTS UNDER SEAL - 1

No. C10-1823

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1 protective order issued in this case. For this reason, and as more fully described below,
 2 Microsoft is required to file this motion.

3 **II. FACTS & AUTHORITY**

4 **A. The Operative Protective Order Requires Microsoft to File Third Party**
Confidential Information under Seal.

5 Pursuant to the Protective Order issued by the Court on July 21, 2011, Microsoft is
 6 required to file under seal materials designated by third parties as Confidential Business
 7 Information¹, with such documents to remain under seal upon Court approval. Paragraphs 2(a)
 8 and 8 of the Protective Order govern the filing of documents under seal. Paragraph 2(a)
 9 provides:

10 Any information submitted in pre-trial discovery or in a pleading, motion, or
 11 response to a motion in this action, either voluntarily or pursuant to order, and
 12 which is asserted by a supplier to contain or constitute Confidential Business
 13 Information shall be so designated by such supplier in writing...and shall be
 14 segregated from other information being submitted. Documents shall be clearly
 15 and prominently marked on their face with the legend: “[SUPPLIER’S NAME]
 16 CONFIDENTIAL BUSINESS INFORMATION, SUBJECT TO
 17 PROTECTIVE ORDER” or a comparable notice. During the pre-trial phase of
 18 this action, such information, whether submitted in writing or in oral testimony,
 19 shall be disclosed only *in camera* before the Court and shall be filed only under
 20 seal, pursuant to Rule 5(g) of the Local Civil Rules of the United States District
 21 Court for the Western District of Washington.

22 Paragraph 8 likewise provides that:

23 Any Confidential Business Information submitted to the Court in connection
 24 with a motion or other proceeding within the purview of this action shall be
 25 submitted under seal pursuant to paragraph 2 above.

26 *Id.*, at ¶ 8.

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1 **B. Exhibit 1 to Chris Wion's June 15, 2012 Letter Discloses Information Designated**
as Confidential Business Information.

2 Exhibit 1 to Chris Wion's June 15, 2012 letter to the Court consists of a letter sent by
3 counsel for Microsoft to counsel for Google, Inc. on June 15, 2012 (the "Cramer Letter"). The
4 Cramer Letter attaches as Exhibit A a document titled "AVC Patent Portfolio License." The
5 AVC Patent Portfolio License is a license agreement between third-party MPEG LA and
6 Motorola's parent company, Google, which MPEG LA has designated as containing
7 confidential information under the terms of the Protective Order entered in this action.
8 Because the Cramer Letter describes and refers to the terms of Google's AVC Patent Portfolio
9 License, Microsoft is required to file both the Cramer Letter and Exhibit A thereto under seal.

10 **III. CONCLUSION**

11 Microsoft has filed the above-referenced document under seal based on MPEG LA's
12 determination that it qualifies for protection under the terms of the Protective Order and the
13 applicable Court rules. A [Proposed] Order Granting Microsoft's 6/15/2012 Motion to File
14 Documents Under Seal has been submitted herewith.

15 DATED this 15th day of June, 2012.

16 DANIELSON HARRIGAN LEYH & TOLLEFSON LLP

17 By s/ Arthur W. Harrigan
18 Arthur W. Harrigan, Jr., WSBA #1751
19 Christopher Wion, WSBA #33207
20 Shane P. Cramer, WSBA #35099

21 s/ T. Andrew Culbert
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13 Counsel for Microsoft Corp.

CERTIFICATE OF SERVICE

I, Susie Clifford, swear under penalty of perjury under the laws of the State of Washington to the following:

1. I am over the age of 21 and not a party to this action.
2. On the 15th day of June, 2012, I caused the preceding document to be served on counsel of record in the following manner:

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10 DATED this 15th day of June, 2012.
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10 s/Susie Clifford
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